Collaboration in research, education and innovation between Switzerland and the Asia-Pacific region
(Workshop 27.11.2013)

MANAGEMENT AND FUTURE USE OF SURVEY DATA

When ETH started the survey it informed your institutions and you as individual researchers that any personal information you provide will only be used internally for the purpose of getting a better overview of the existing ties between Swiss researchers and the researchers in the 20 target countries or for the purpose of contacting you for further information.

Subsequently, we received a number of requests by colleagues from several international offices whether we could share the data provided by researchers from their university. What are the legal conditions for handling and possibly sharing the data?

The information which the researchers gave to ETH are „personal data“ or just „data“ in the sense of the Swiss federal act on data protection (Datenschutzgesetz, Loi sur la protection des données). With the term „personal data“ the Federal act means all information related to an identified or identifiable person (art. 3 letter a). It is of no importance whether such data are related to private or professional activities or characteristics. Therefore the data the researchers communicated to ETH are subject to this Federal act.

This fact means that ETH is legally responsible for the correct handling of the data. Article 16 of the Federal act on data protection stipulates: The federal authority (= ETH) that processes personal data is responsible for data protection. The word „processing“ (in German: „Bearbeiten“; in French: „traitement“) means any operation with personal data, irrespective of the means applied and the procedure, in particular the collection, storage, use, disclosure, archiving or destruction of data. This is the answer to one of the questions which we received: Who is the owner of the data and who will be in charge with the data protection? Speaking of data protection the term „ownership“ in the common sense is not helpful. The base for the obligations concerning data protection is not an „ownership“ but the fact that somebody – in this case ETH – is processing the data. Therefore ETH is in charge with this protection.

This implies different obligations.

The most important obligation is, of course, the internal protection of the data by technical and organizational means. This is the more so as the survey contains not only data like name, address and scientific activities but also personal statements and opinions. Therefore only a clearly defined number of persons at ETH has a password-protected access to these data. The collaborator who was in charge with the collection of the data and who left ETH in the meantime, signed a declaration before leaving, confirming that he has no personal copy of these data.
Another of ETH’s obligations is related to the question of the disclosure of data: Is it allowed to disclose data and if so, to whom under which circumstances?

ETH fully appreciates the cooperation of the Swiss universities in this survey. Without this cooperation the survey would not have been possible or at least not in the way it has been realized. Therefore it is the wish of ETH to share the results of this survey as far as possible with all participating universities. We understand that each participating university is interested in getting the information about its own researchers. However, it is important to stress that ETH must take into account some legal restrictions. These restrictions are the consequence of the fact that the information received has been delivered by the researchers directly to ETH. According to Article 19 of the Federal act on data protection, ETH is not allowed to disclose the data received by a researcher to anyone, unless the researcher gives his consent. No consent is necessary for the information about the outcome of the survey when the data are rendered anonymous. As long as no identification of an individual is possible, ETH can and will inform all participating universities and researchers about the results. But as far as the original information with the names of the researchers involved is concerned, we cannot act without the consent of the researchers. Unfortunately ETH was not aware of this legal restriction when it started the contacts with Swiss universities concerning the survey. For future surveys ETH (and other participating universities) must ensure that the researchers will be informed from the beginning about the fact that ETH (or any other data collecting university) will disclose their answers and information to their respective universities. Thus, with the participation in the survey the researcher will give his implicit consent. We applied this procedure in the meantime with the University of Zurich which invited its researchers to participate in the survey only after this question has been clarified; the researchers have been informed that the information they give to ETH will later be given by ETH to the University of Zurich.

As mentioned before, it is the intention of ETH to share the information received. Therefore we intend to contact all researchers involved and inform them that ETH will disclose their data to their university, unless they contradict within a delay of two weeks or so, which means on a no-objection basis. We will do this straight after the workshop when we share the Powerpoint on the survey results and the outcomes of the workshop with all participants who responded to the questionnaire. We hope that after this confirmation we will be able to give to each one of the universities the information about its researchers. Please keep in mind that your university is then obliged to protect the data in a legally sufficient way as ETH does. Cantonal universities are not subject to the Swiss federal act on data protection but to cantonal acts on data protection. However, these are similar to the Federal act. For instance, you must not transfer these data to further recipients, unless the concerned researchers agree. Also, if your university intends to publish the results of this survey, it must ensure that the participants are not identifiable.

ETH has been asked by one of the universities whether it will be possible later on to make full use of the data base. Which means to get full information about all researchers who have participated in the survey. As far as we are speaking of data which have been rendered anonymous, the answer is: yes. As far as we are speaking of full data with names and other personal details, the same as explained before applies. We are not permitted to disclose these data without the explicit consent of the researchers.

Dr. R. Hain  
Head Legal Dept. ETH Zürich  
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